

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FILED

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U.S. DISTRICT COURT
NEW HAVEN, CT.

EUGENE R. FIDELL)
227 Church St., Apt. 6J)
New Haven, CT 06510)
Tel. (203) 859-5306,)
)
Plaintiff,)
)
v.)
)
DEPARTMENT OF THE ARMY)
101 Army Pentagon)
Washington, DC 20310-0101,)
)
Defendant.)

Civil Action No. 3:19cv1069(KAD)

COMPLAINT
(Freedom of Information Act)

Nature of the Action

1. This is an action to compel the Department of the Army to release records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

Jurisdiction

2. The Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

Parties

3. Plaintiff lives at the address shown in the caption.
4. The Army is a federal agency for FOIA purposes. 5 U.S.C. § 552(f)(1).

Venue

5. Venue is proper in this district. 5 U.S.C. § 552(a)(4)(B).

Facts

6. On February 1, 2019, plaintiff, an attorney, sent a FOIA request to an Army officer who had identified himself as the point of contact for questions about administrative action affecting a soldier who is one of plaintiff's clients:

Please provide copies of all documents related to the determination referred to in your memorandum, including but not limited to correspondence, emails, message traffic, memoranda, status reports, PowerPoint presentations, and legal analyses.

This request extends to all communications within the Army, including but not limited to the Office of the CSA [Chief of Staff of the Army], Army Staff, Public Affairs, Human Resources Command, FORSCOM [U.S. Army Forces Command], OTJAG [Office of the Judge Advocate General], USALSA [U.S. Army Legal Service Agency], Criminal Law Division, Administrative Law Division, and OCLL [Office of Congressional and Legislative Liaison].

It also extends to all communications to or from any trial counsel [*i.e.*, military prosecutor] in [plaintiff's client's] general court-martial, DFAS [Defense Finance and Accounting Service], the White House, the National Security Council, any Senator or Member of Congress, House or Senate committee and staff, and any member of the public.

7. By further email later that day, plaintiff added a request that the search include records of the Office of the Deputy Chief of Staff of the Army for Personnel.
8. Defendant has released to plaintiff two batches of responsive records, but has not released any that were sent to or received from the White House, National Security Council, Senators, Members of Congress, congressional committees and staff, the Office of the CSA, OCLL, DFAS, and members of the public.
9. The deadline for the completion of agency action on plaintiff's request expired months ago.

Cause of Action

10. The allegations in ¶¶ 1-9 are incorporated herein.
11. Defendant's failure to release all remaining responsive records is contrary to law.
12. Plaintiff is entitled to an order directing release of all remaining responsive records.

Request for Relief

WHEREFORE plaintiff respectfully prays that a judgment enter—

- a. directing defendant to release all remaining responsive records forthwith;
- b. awarding plaintiff attorney fees and costs; and
- c. granting such other and further relief as may in the circumstances be just and proper.

Respectfully submitted,



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Attorney for Plaintiff

Serve:

Attorney General of the United States
United States Attorney for the District of Connecticut
Secretary of the Army